

REAL ESTATE PURCHASE AGREEMENT

THIS REAL ESTATE PURCHASE AGREEMENT, herein the "Agreement," is made and entered into as of the _____ day of _____, 2009, by and between Neil and LaDonna Robertson, purchasers by real estate contract, herein the "Sellers," and the Redevelopment Agency of West Valley City, a municipal corporation of the State of Utah, herein the "Buyer."

RECITALS:

- A. The Sellers are purchasing by real estate contract a parcel of property located at 2912 West Lehman Avenue, in West Valley City, Salt Lake County, State of Utah, herein the "Property." The Property is more particularly described and depicted on the attached Exhibit "A," which is incorporated herein. For purposes of this Agreement, the term "Property" shall include the Property purchased pursuant to the terms of this Agreement and all of the Sellers' right, title, and interest in and to all leases, privileges, rights-of-way, easements, and appurtenances, and all other rights appurtenant to or connected with the beneficial use or enjoyment of the Property, including, without limitation, any of the Sellers' right, title, and interest in and to immediately adjacent public streets, roads, alleys, or rights-of-way; all mineral rights; all surveys in the Sellers' possession or control relating to the Property; and all soils and other geological or environmental studies, investigations, and reports, engineering studies and reports, wetlands information and reports, and landscaping plans and specifications in the Sellers' possession or control relating to the Property.
- B. The Sellers desires to sell the Property to the Buyer, and the Buyer desires to purchase the Property from the Sellers, upon the terms and conditions contained in this Agreement.

NOW, THEREFORE, in consideration of the covenants and promises contained in this Agreement, the Buyer and the Sellers agree as follows:

AGREEMENT:

- 1. **Purchase of Property.** Subject to the terms and conditions of this Agreement, the Sellers agree to sell the Property to the Buyer, and the Buyer agrees to purchase the Property from the Sellers. The Sellers hereby agree to effect this purchase and sale transaction through the use of a Warranty Deed, subject only to those title matters which are acceptable to the Buyer.
- 2. **Purchase Price.**
 - a. Purchase Price. The Purchase Price shall be \$152,500.00, payable in United States dollars.
 - b. Earnest Money. Within 10 days of the execution of this Agreement by all parties, the Buyer shall pay \$5,000 earnest money into escrow account with the title company to

be paid to the Sellers at Closing. The Earnest Money shall become non-refundable upon Buyers approval of the Title to the Property.

- c. Balance of Purchase Price. The Buyer shall pay the entire Purchase Price, less the Earnest Money, in cash at the Closing.
3. **Conditions to Closing.** The Closing shall not occur until each one of the following conditions precedent has been satisfied, in the Buyer's sole discretion, prior to the Closing; provided, however, that the Buyer is entitled to waive any of the conditions in writing.
- a. Approval of Title. At the Closing, the title to the Property shall be in a condition that is acceptable to the Buyer in its sole discretion. At the Buyer's written request, the Sellers shall provide such documentation, releases, or reconveyances as may be necessary to provide a title acceptable to the Buyer.
 - b. Water Rights. The parties agree that all water rights, water shares, or stock owned by the Sellers and associated with the property, if any, shall be conveyed to the Buyer.
 - c. Mineral Rights. The sale includes all mineral rights to the Property.
4. **Closing.** The term "Closing" is used in this Agreement to mean the time at which the title company records the Deed in the office of the Salt Lake County Recorder. The Closing shall occur on or before April 20, 2009, unless the Buyer and the Sellers mutually agree in writing to close the transaction on an alternate date.
- a. Buyer Deliveries. On or before the Closing Date, the Buyer shall deliver payment of the balance of the cash Purchase Price.
 - b. Sellers Deliveries. On or before the Closing Date, the Sellers shall deliver the following to the Buyer:
 - (i) The duly executed and acknowledged Warranty Deed in favor of the Buyer, conveying fee title to the Property, free and clear of all liens and encumbrances which are unacceptable to the Buyer.
 - c. Buyer's Costs. The Buyer shall pay the following items at or before the Closing:
 - (i) The Purchase Price.
 - (ii) Closing, escrow and recording costs.
 - (iii) The cost of title insurance.
 - d. Prorations.

- (i) All water, sewer, and utility charges for the Property.
- (ii) Seller is paying the prorated 2009 General Property Taxes through the date of Closing however if for any reason the Salt Lake County Treasurer determines there are still taxes due on the property, it is the responsibility of the Seller to pay said taxes since the Buyer is tax exempt.
- (iii) All levied or pending assessments affecting the Property.

The Seller shall furnish to the Buyer sufficient information to enable the Buyer and the Seller to make the prorations required under this Agreement.

e. Failure to Deliver.

- (i) If the Buyer fails or refuses to deliver the required funds at the Closing, the Sellers may, at the Sellers' option, extend the time for the Closing, or may commence an action for damages, or bring an action to compel specific performance by the Buyer. All costs shall be borne by the party incurring the cost. The Sellers expressly agrees that the action for damages, or action for specific performance pursuant to this section shall be the Sellers' sole remedies for the Buyer's failure to perform or deliver at the Closing.
- (ii) If the Sellers fail or refuse to deliver a valid and acceptable Deed, or such other documents as may be necessary for the Sellers to perform at the Closing, the Buyer may, at the Buyer's option, extend the time for the Closing, or may take any legal action necessary to enforce the Buyer's rights, to be made whole for damages caused by the Sellers' default, and/or to compel specific performance by the Sellers.

5. **Sellers's Representations, Warranties and Covenants.**

- a. The parties expressly understand that each of the following representations, warranties, and covenants made herein is material, and that the Buyer is relying upon each of such representations, warranties, and covenants as true and correct as of the date on which the parties executed this Agreement and as of the Closing Date, as though such representations, warranties and covenants had been made on each of such dates. As a condition to the Closing, the Sellers hereby make the following representations and warranties, in addition to any others made in this Agreement:

At the Closing, the Sellers will be the sole owner of the Property and will hold title to the Property in fee simple, free and clear of all encumbrances, except for those found acceptable by the Buyer.

- (ii) The Sellers warrants that there is no pending claim, suit, or litigation that involves the Property.

- (iii) At the Closing, there will be no unpaid bills or claims in connection with the Property.
- (iv) Between the date of this Agreement and the Closing date, the Sellers, without the Buyer's prior written consent, shall not subject any right, title, or interest in the Property to any mortgage, pledge, lien, or other encumbrance.
- (v) This Agreement and the consummation of this transaction do not and will not contravene any provision of any judgment, order, decree, writ, or injunction, and will not result in a breach of, constitute a default under, or require consent pursuant to any credit agreement, lease, indenture, mortgage, deed of trust, purchase agreement, guaranty, or other instrument to which any of the persons or entities comprising the Sellers are presently a party or by which any of the same or their respective assets are presently bound or affected.
- (vi) All documents delivered to the Buyer by the Sellers pursuant to this Agreement are true, correct, and complete originals or accurate copies of originals.

Between the date of this Agreement and the Closing date, the Sellers, without the Buyer's prior written consent, shall not subject any right, title, or interest in the Property to any mortgage, pledge, lien, or other encumbrance.

To the actual knowledge of the Sellers no hazardous waste or toxic substances have been stored on, released into, generated on, or deposited upon the Property or into any water systems on or below the surface of the Property, and the Property complies with all local, state, and federal hazardous waste laws, rules, and regulations.

The Sellers hereby agree and covenants that the Purchase Price being paid by the Buyer constitutes full and adequate consideration for the Property and rights being acquired by the Buyer.

These representations, warranties, and covenants of the Sellers shall survive the Closing on the Property.

6. **Brokerage Commissions.** The Buyer is represented by Broker Dee Hansen of DRH Realty, LLC. The Sellers is not represented by a broker or real estate agent in this transaction. The Buyer shall be solely responsible for the payment of the commission to Dee Hansen in this transaction. Further, the Sellers hereby indemnifies the Buyer from and against all claims, actions, damages, or costs, including reasonable attorney's fees and court costs, in connection with any claimed brokerage or real estate commissions with respect to the transaction contemplated by this Agreement that arise from or through any agent or broker consulted or used by the Sellers. The Buyer hereby indemnifies the Sellers from and against all claims,

7. **Additional Documents.** Both the Buyer and the Sellers agree to execute all other documents and to do such other acts as may be reasonably necessary or proper in order to consummate the transaction contemplated by this Agreement. The Buyer also agrees to enter into a lease with the Sellers to accommodate the Sellers remaining on the property until October 31, 2009, and then on a month to month basis with a 60 day notice to vacate. The lease rate will be \$400 per month. This right to stay and reduced rent are compensation to the Sellers in lieu of the Sellers receiving any reimbursement for moving costs when they vacate the property. The Sellers hereby agree that the Purchase Price combined with the lease as set forth in this section 7 has fully compensated the Sellers and that they are not due relocation expenses or any other payments of any kind from the Buyer. This section 7 shall survive the Closing on the Property. Any additional terms of the lease shall be negotiated prior to Closing and the lease shall be executed at Closing.

8. **Notices.** All notices, requests, demands, and other communications required under this Agreement, except for normal, daily business communications, shall be in writing. Such written communication shall be effective upon personal delivery to any party or upon being sent by overnight mail service; by telecopy (with verbal confirmation of receipt); or by certified mail, return receipt requested, postage prepaid, and addressed to the respective parties as follows:

With a copy to: J. Richard Catten
City Attorney
West Valley City
3600 Constitution Boulevard
West Valley City, Utah 84119
Telephone: 801-963-3271
Facsimile: 801-963-3366

Either party may change its address for purposes of this Agreement by giving written notice to the other party.

9. **Attorney's Fees.** Should it become necessary for either party to enforce its rights under this Agreement, whether in suit or otherwise, the prevailing party shall be entitled to recover from the unsuccessful party reasonable attorney's fees and costs, in addition to any other relief to which the party attempting to enforce its rights hereunder may be entitled.
10. **Modification.** Neither party to this Agreement may amend or modify this Agreement, except in a writing executed by the parties hereto.
11. **Risk of Loss.** If, prior to the Closing Date, the Property or any portion thereof is damaged by fire, acts of God, or other casualty or cause, the Buyer shall have the right to terminate this Agreement and the Earnest Money shall be refunded to Buyer.
12. **Entire Agreement.** The parties expressly agree that this Agreement and the exhibits attached hereto constitute the full and complete understanding and agreement of the parties, and that this Agreement supersedes all prior understandings, agreements, and conversations between the parties, whether oral or written. Any prior negotiations, correspondence, or understandings related to the subject matter of this Agreement shall be deemed to be merged into this Agreement and the attached exhibits.
13. **Severability.** If any term or provision of this Agreement is invalid or unenforceable for any reason whatever, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Agreement.
14. **Captions and Headings.** The section headings or captions appearing in this Agreement are for convenience only, are not a part of this Agreement, and are not to be considered in interpreting this Agreement.
15. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be an original for all purposes, but all of which shall constitute but one and the same instrument.
16. **Governing Law.** This Agreement shall be construed in accordance with the laws of the State of Utah.
17. **Assignability.** This Agreement shall bind and inure to the benefit of the assignees, heirs, and successors-in-interest of the Buyer and the Sellers. Neither the Buyer nor the Sellers shall assign its rights or delegate its obligations hereunder without the prior written consent of the other.
18. **Time of the Essence.** Time is of the essence with respect to the performance of the parties under this Agreement.

19. **Waiver.** A waiver by either party of any provision of this Agreement shall not operate or be construed as a waiver of any other subsequent breach.
20. **Applicances.** The Buyer hereby agrees that the Sellers may remove and retain the washing machine, clothes dryer, and refrigerator from the Property when the Sellers vacate the Property at the termination of their lease. This section shall survive the Closing.

IN WITNESS WHEREOF, the parties to this Agreement have executed this Agreement as of the day and year first above written.

BUYER:
Redevelopment Agency of West Valley City

ATTEST:

Secretary

Executive Director

APPROVED AS TO FORM
WVC Attorney's Office

By: _____

Date: _____

Sellers

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

On this _____ day of _____, 2009, personally appeared before me Neil Robertson and LaDonna Robertson, the signers of the foregoing instrument, who duly acknowledged to me that they executed the same.

Notary Public

EXHIBIT “A”

The land referred to in this Commitment is located in Salt Lake County, UT and is described as:

LOT 3, LEHMAN SUBDIVISION, according to the Official Plat thereof, on file and of record in the Office of the Salt Lake County Recorder.

Said property is also known by the street address of:
2912 West Lehman Avenue, West Valley City, Utah 84119